IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

Crl.MC.No. 1427 of 2007()

(AGAINST C.C. NO.622/96 OF JFCM - I, ALUVA)

PETITIONER:

JOBY, S/O. WILLIAMS, AGED 39 YEARS,
PULIKKAPARAMBIL HOUSE, THOPPIL,
VAZHAKKALA VILLAGE.

BY ADV. SRI.T.K.AJITHKUMAR (VALATH)

RESPONDENT:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1427 of 2007

Dated this the 28th day of May, 2007

ORDER

The petitioner faces allegations, inter alia, under the provisions of the Prevention of Destruction of Public Property Act. All the other accused have been tried, found not guilty and acquitted. Against the petitioner, proceedings have been initiated under Sections 82 and 83 Cr.P.C. He finds himself facing the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing.

2. The petitioner submits that his inability to appear earlier was not wilful and was on account of reasons beyond his control. He is willing to surrender before the learned Magistrate, but apprehends that his bail application may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that appropriate directions may be issued under Section 482 Cr.P.C.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or

specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-